

TRANSCRIPT OF PROCEEDINGS

*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

IN THE MATTER OF:

MB DOCKET NO. 04-191

SAN FRANCISCO UNIFIED SCHOOL DISTRICT

**ORIGINAL**

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BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

IN THE MATTER OF:

SAN FRANCISCO UNIFIED  
SCHOOL DISTRICT

MB Docket No. 04-191

For Renewal of License for  
Station KALW(FM),  
San Francisco, California

Facility ID No. 58830  
File No. BRED-19970801YA

Volume 4

Hearing Room TW A363  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Tuesday,  
June 7, 2005  
9:15 a.m.

BEFORE:

Richard L. Sippel, CHIEF ADMINISTRATIVE LAW JUDGE

APPEARANCES:On Behalf of the San Francisco  
Unified School District:

MARISSA G. REPP, ESQ.  
MARTIN ALEXANDER PRICE, ESQ.  
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I-N-D-E-XWITNESSDIRECT CROSS REDIRECT RECROSS

Jeffrey P. Ramirez		520	569
William C. Helgeson	593	595	

EXHIBITSDESCRIPTIONMARK RECD

58	FCC 303S Instructions Vol. 3 June 1995	589
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Start Time: 9:14 a.m.

Lunch: 11:45 a.m - 1:44 p.m.

End Time: 6:05 p.m.

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P-R-O-C-E-E-D-I-N-G-S

9:14 a.m.

JUDGE SIPPEL: We're back on the record.

All persons who were assembled yesterday are here today. We have been honoring the sequestration rule I take it? I mean there've been people in and out the courtroom, but I take it these were not -- no witnesses or anything?

MR. PRICE: That's correct, Your Honor.

JUDGE SIPPEL: Or allowed in, okay.

MR. SHOOK: Most of the people who were here yesterday were from the bureau and I believe a number of them were interns.

JUDGE SIPPEL: Okay, good, so, okay. Thank you. All right, we're back on the record. You're still under oath, Mr. Ramirez.

THE WITNESS: Yes, sir.

JUDGE SIPPEL: This is now direct examination.

MR. PRICE: That's correct.

JUDGE SIPPEL: Or re-direct I should say. Go ahead.

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1 MR. PRICE: Mr. Ramirez, yesterday's cross  
2 examination included a series of questions related to  
3 the timing of your preparation of the renewal  
4 application and the effect that your conversation with  
5 Mr. Sanchez and the memo that Susan Hecht prepared for  
6 you may have played on your analysis.

7 I think what might be helpful for the  
8 court this morning on redirect is to spend a short  
9 amount of time more clearly establishing the precise  
10 timeline of events and that will hopefully make things  
11 more clear for the court and for yourself of these  
12 events that happened eight or nine years ago.

13 In an effort to move this along more  
14 rapidly this morning in light of our schedule, I'm  
15 going to focus just on the renewal application, and I'm  
16 going to ask in advance for a little bit of the  
17 court's and Mr. Shook's indulgence if I try to point  
18 the witness to specifically the questions I'm trying to  
19 get to.

20 I'm certain that if I do, I'll hear from  
21 Mr. Shook promptly.

22 JUDGE SIPPEL: Go ahead.

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## RE-DIRECT EXAMINATION

BY MR. PRICE:

Q Yesterday, Mr. Shook walked you through a series of questions related to the receipt of the renewal application and your first contacts with Mr. Sanchez. Do you recall that?

A Yes.

Q You were shown an exhibit, Enforcement Bureau Exhibit 7, which was the Sanchez Law Firm billing statements from 97 -- 98, do you recall that?

A Correct.

Q Did review of that document refresh your recollection at all as to what you and Mr. Sanchez both collectively or individually were doing with respect to the license renewal application?

A Nothing I could specifically recall on my own, basically it's what it says here in the phone log.

Q Before focusing back on that document, let me just ask you a few preliminary questions about Mr. Sanchez. Yesterday you testified that you were well aware that any time you picked up even the phone to

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1 talk to Mr. Sanchez that you were on the Law Firm, or  
2 you were costing the station money, and so you were  
3 measured in deciding on when to consult with Mr.  
4 Sanchez, is that right?

5 A Correct.

6 Q Despite this concern with cost, would you  
7 have had any hesitation to call Mr. Sanchez on any  
8 matter of legal significance to the station?

9 A No. I mean I was making my own call on  
10 when I would call her in and -- if I figured it was  
11 important enough, I wouldn't consult with anyone else  
12 before calling him. I would call him.

13 Q Did anyone at the district ever tell you  
14 not to call Ernie for some reason?

15 A No.

16 Q Did anyone at the station or the district  
17 tell you not to call Ernie with respect to questions  
18 regarding the license renewal application?

19 A No.

20 Q Now with that as background, can you  
21 describe briefly how it is that you came to be aware  
22 of the renewal application and what you did in

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1 response? You may refer to Exhibit E7, Enforcement  
2 Bureau 7, if that helps refresh your recollection.

3 A I'm not sure if I understand the question.

4 Q Well do you recall -- what was the first  
5 step in the process? When it began I see that Mr.  
6 Sanchez's billing statement, it appears you called him  
7 on the 7th of May regarding the licensee renewal  
8 procedures. What do you recall, how do you recall  
9 that process beginning?

10 A I remember that the station, we received  
11 what I remember to be a postcard from the FCC  
12 notifying us that the license renewal, or our  
13 broadcast renewal, our broadcast license was subject  
14 to renewal.

15 At some point later on, I remembered that  
16 we must have received the license renewal application  
17 package from the FCC. I suspect that one of those two  
18 events is what caused me to look; it looks like I left  
19 a message for Mr. Sanchez on that date.

20 Q Then the entry below on the on the split  
21 listings suggested that you ultimately spoke to Mr.  
22 Sanchez shortly thereafter?

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1           A       Yes, it looks like I, Ernie and I talked  
2 on the next day, May 8, and then it looks like we  
3 spoke again on May 14. It says here that -- what it  
4 says here is gather renewal related materials for Mr.  
5 Ramirez. It looks like we had another conversation on  
6 May 31, reading the description.

7           Q       Let's try to put those conversations in  
8 context, briefly.

9           A       Okay.

10          Q       You had a talk -- you indicated just a  
11 moment ago that you received some kind of postcard or  
12 notification from the FCC that your renewal  
13 application would be, was coming due sometime soon?

14          A       Correct.

15          Q       You indicated that occurred before  
16 receiving the application?

17          A       Yes.

18          Q       You testified yesterday, we heard  
19 testimony yesterday, that the FCC mailed the  
20 application itself on the 15th. Do you recall that?

21          A       Yes.

22          Q       So, would the postcard have related -- do

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1 you suspect or do you recall, to these first two  
2 conversations?

3 A Well based on what you just said it would  
4 have been the postcard if the FCC records show that  
5 the application was sent on later.

6 Q At some point you received the  
7 application?

8 A Correct.

9 Q Upon receipt of the application, then what  
10 happened?

11 A It looks like I had another conversation  
12 with Mr. Sanchez about the license renewal on June 30.

13 Q Well let's take it slower. Let's take it  
14 just step by step. You got the application; it was  
15 mailed late in May.

16 A Okay.

17 Q Or it was mailed mid-May, I'm sorry.

18 A Okay.

19 Q What happened when you received the  
20 application? What did you do?

21 A Well I think upon receiving the  
22 application I would have read through the materials,

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1 read each question, done what I think I needed to do  
2 with respect to following up on the regulation or the  
3 rule related to each question and then if I had any  
4 questions after that I think I would have called Mr.  
5 Sanchez.

6 Q Well, what were some of the questions, for  
7 instance, that you spent some time on? When you first  
8 received it and started completing the application?

9 A I suspect I -- I'm trying to remember all  
10 the things that I would have paid attention to, or  
11 thought I needed more assistance on. Probably needed  
12 assistance for the whole application. It included  
13 numerous forms, or forms that we had to go out and get  
14 and then include in the application.

15 I remember the application that I  
16 subsequently submitted to the FCC included the actual  
17 application itself which I remember had about a dozen  
18 questions, an EEO report, an ownership report, and  
19 then we also had to submit a change of address form  
20 since we had changed locations since the last time.

21 Q Did you need to consult with other people  
22 in completing those aspects of the application?

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1           A       Oh for sure. There was a part of the  
2 application with respect to the environmental impact  
3 of our transmitter; I think the term was RF radiation,  
4 rate of frequency radiation.

5                   There was also another aspect of the  
6 application with respect to reporting or disclosing  
7 any EEO or discrimination claims against the licensee  
8 and I don't remember who specifically I worked with  
9 but in my testimony I talk about how I must have had  
10 to go find someone or work with someone to get that  
11 information.

12           Q       Then at a certain point in this process  
13 you focused on the questions related to the public  
14 inspection?

15           A       Yes. My going through the application  
16 would have been a sequence. Starting from the top and  
17 going down. I think the public inspection, file  
18 question, was about a third of the way through the  
19 application. Certainly it was on page two or three of  
20 the application.

21           Q       Then I as I recall you testified from  
22 yesterday when you got to the public inspection file

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1 questions in June, that's when you assigned Ms. Hecht  
2 to assist you in organizing the file, is that correct?

3 A Yes. What I remember doing is when I got  
4 to that question I looked at the file myself and it  
5 was still as messy as I remember it being before and  
6 I realized I needed some help putting it in some kind  
7 of order. So that's when I asked Susan Hecht to  
8 volunteer to help me straighten it out.

9 Q Was it your intent, was it always your  
10 intention to do the ultimate review of the public  
11 inspection file --

12 A Oh, for sure.

13 Q -- yourself?

14 A I -- for sure -- I took it upon myself to  
15 take responsibility for filling out the license  
16 renewal application. This certainly isn't something  
17 that I would have left to a volunteer to do for me.  
18 So yes, I intended to conduct my independent review of  
19 the public file and then respond to the question  
20 accordingly.

21 Q Now we talked a bit yesterday about Ms.  
22 Hecht's role at the station. That she came in once a

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1 week, that you'd sometimes run into her, she typically  
2 answered the phone, and that type of thing. She  
3 typically answered the phone or stuff like that, is  
4 that right?

5 A Correct.

6 Q Did you, in asking Ms. Hecht to help  
7 organize the public inspection file, give Ms. Hecht  
8 for example a copy of the relevant FCC regulations?

9 A No, I don't remember doing that.

10 Q Did you ever see Ms. Hecht with a copy of  
11 the FCC regulations?

12 A No, I don't remember ever seeing that.

13 Q Did you give Ms. Hecht a copy of the  
14 license renewal application?

15 A No, I don't remember ever giving that.

16 Q Were you aware then or are you aware today  
17 whether Ms. Hecht had any experience in FCC regulatory  
18 matters?

19 A No, I don't know that.

20 Q Did you have any basis to think that the  
21 memo she placed in you mailbox reflected any kind of  
22 understanding as what was supposed to be in the public

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1 inspection file?

2 A No, and I think that's what contributed  
3 when -- like I said yesterday in my testimony -- I  
4 spent maybe two or three seconds looking at it and  
5 deciding that it isn't anything I should use because  
6 one, I'd already started looking at the file myself.

7 Q In any event, you testified yesterday that  
8 some time after you tasked Ms. Hecht to organize the  
9 file you ultimately decided you would need to begin  
10 your own independent review before you received her  
11 memo, is that right?

12 A I'm not sure -- yes. I was, I had started  
13 looking at the file already, and even after I received  
14 the list from her, I continued to look at the file  
15 myself to respond to the question.

16 Q So you got the memo from Ms. Hecht, but it  
17 came in the middle of your review so you gave it a  
18 couple of seconds a quick look then you continued what  
19 you were doing. Is that --

20 A Correct.

21 Q -- what you are saying?

22 A Yes.



1 Q As you were reviewing the public  
2 inspection file, was there any indication that someone  
3 had made an effort to organize it or clean it up?

4 A No.

5 Q To your knowledge did Ms. Hecht ever  
6 organize or clean up the public inspection file?

7 A No. I never had the sense that the file  
8 had actually ever been straightened up for me.

9 Q So, just so the record is clear, did Ms.  
10 Hecht's memo inform in any way your review of the  
11 file?

12 A No.

13 Q All right. Did you speak to Mr. Sanchez  
14 during this time?

15 Let me change the question. Did you speak  
16 to Mr. Sanchez during that time? That is, as part of  
17 your interactions with Ms. Hecht, and your own  
18 independent review of the public inspection file.

19 Was this a period of time where you would  
20 have had a conversation with Mr. Sanchez, and you can  
21 refer to Enforcement Bureau Exhibit 7 if that helps  
22 refresh your recollection in any way.

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1           A       Yes, I think so. According to the phone  
2 logs here, on June 30 and then on July 2, I had  
3 telephone conversations with Ernie Sanchez about the  
4 license renewal, and then in the second log entry it  
5 says renewal application.

6           Q       Would those two conversations have been  
7 about the time that you were completing or working on  
8 your review of the public inspection file?

9           A       Yes, that would have been the same time as  
10 I was working on the application, yes.

11          Q       I don't know if you can make this out, but  
12 about how long were each of those phone calls? Can  
13 you make that out from this billing statement?

14          A       I'll just quickly scan this and just  
15 reading across under the units, DNV TIME; I'm assuming  
16 that means time on the call. And the June 30 call has  
17 .75 and the next call is .50. I'll assume that .50 is  
18 half, which would be half an hour if we're measuring  
19 units of one hour. The first call I'll guess is 45  
20 minutes again if we're measuring in one-hour units.

21          Q       Were there any other calls in this period?

22          A       Looks like there was another call --

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1           Q     If you're looking at a different page,  
2 maybe you could identify that for the court and the  
3 court reporter?

4           A     Yes. This is now page two of the log. It  
5 looks like the next call is on -- that refers to the  
6 renewal application in some way or another -- is on  
7 July 30.

8           Q     Is there a call on the seventh of July  
9 with -- between you and Mr. Sanchez?

10          A     Yes, there's a call on July 7. All it  
11 says is return call from Mr. Ramirez, it doesn't  
12 specifically refer to the renewal application, but  
13 that --

14          Q     Is that the period in which you were  
15 reviewing the public inspection file?

16          A     Yes, that would have been in the same  
17 period, yes.

18          Q     Did you ultimately send a copy of the  
19 renewal application to Mr. Sanchez for his review?

20          A     Yes, I remember doing that and it looks  
21 like the station was billed on July 30 for Mr.  
22 Sanchez's review of the final renewal application.

1           Q       Had those previous conversations with Mr.  
2 Sanchez informed your analysis in completing the  
3 license renewal application?

4           A       Certainly it informed my completion of the  
5 renewal application. Today I can't remember anything  
6 specific that we spoke about, but sure if we spoke for  
7 45 minutes, half an hour, and then maybe another half  
8 hour on the 7th.

9           Q       To the best of your recollection is that  
10 what was going on at the time? Was that your  
11 principal purpose for having conversations with Mr.  
12 Sanchez at that time, would have been completing the  
13 license renewal application?

14          A       Yes.

15          Q       Anything else that would have been  
16 significant that you would have spent that much time  
17 on the phone with him?

18          A       I see another entry here for an SCA  
19 contract provision, but that wouldn't have taken that  
20 much time. That was more we were releasing one of our  
21 SCA channels and I just needed a legal review of the  
22 contract that we were using.

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1           Q     So you indicate that you sent Mr. Ramirez  
2 a draft or a proposed final submission of the license  
3 renewal application, and did you hear back from Mr.  
4 Sanchez? Do you recall?

5           A     I don't recall, today I don't recall  
6 hearing back from him but certainly -- I wouldn't have  
7 ultimately sent the renewal application into the FCC  
8 if I had not heard back from him considering that the  
9 work he was doing was to review the renewal  
10 application on July 30.

11          Q     So just to be clear, you wouldn't have  
12 sent in the application if Mr. Sanchez had not  
13 confirmed with you it was okay to have sent in?

14          A     Correct.

15          Q     And he reviewed the file before his  
16 testimony? According to his listings, on the 30th of  
17 June, of July, is that correct?

18          A     Yes, that's what this says, yes.

19          Q     Now you indicate that completing the  
20 entire renewal application took place over a period of  
21 weeks. Several weeks. Is that correct?

22          A     Yes. That's the best that I remember.

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1 That it would have taken place over several weeks.  
2 This isn't the type of activity that I would have  
3 stopped doing everything else and spent full time --  
4 eight, ten hours a day of working on this.

5 I remember working on other activities,  
6 dealing with a crisis at the station. I remember that  
7 we'd also just made the most major of our program  
8 changes just the month before, so I also would have  
9 been monitoring the immediate effects or impact on our  
10 audience. The impact on our fundraising.

11 So this was an activity that would have  
12 happened a couple of hours here, a couple of hours  
13 there, over a number of weeks.

14 Q Was this -- if you have any recollection -  
15 - was this a generally busy two months for, with  
16 regard to other things going on at the station, or was  
17 the summer a slow period. Is there any way you can  
18 recall that?

19 A Well like I said, this was a busy period.  
20 We had just -- it was interesting going through the  
21 program guides yesterday. We had just made the most  
22 major program changes that I had made at the station

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1 in this same period. That was the time that we moved  
2 Fresh Air, we expanded Open Air.

3 Those are significant changes to the  
4 program schedule. They have a significant impact on  
5 our listenership. Any time you make a major program  
6 change like that, that's pretty risky.

7 It's going to impact whether your  
8 listeners, whether your listenership is going to go  
9 up, or go down. That's going to have a direct impact  
10 on the fundraising. Obviously your ability to pay the  
11 bills. They tend to generate an enormous amount of  
12 comments -- both good and bad -- that I would I have  
13 to respond to. So yes, it was an extraordinarily --  
14 there's the impression that you make a program change  
15 and you go on to other business. No. Sometimes when  
16 you make a program change, especially as major as  
17 that, there's a lot more work you've got to do to --  
18 again, monitor listenership, monitor the impact on  
19 fundraising, respond to both the good and bad comments  
20 that we got about the changes.

21 Q My last question with respect to the  
22 renewal application. Would you characterize Mr.

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1 Sanchez as being actively involved in the license  
2 renewal application process up to the submission of  
3 the application on July 1, 1996?

4 A Yes, he was actively involved. It looks,  
5 according to the log here that I had at least two  
6 conversations, or at least three, where the renewal  
7 application is a part of the phone log, and then  
8 another call. There's nothing specific, but I don't  
9 know what else I would have been talking to him about.

10 Q Now let's turn to a few months later, the  
11 October 4 memo that you prepared and sent to Mr.  
12 Sanchez. That's SFUSD Exhibit 6.

13 MR. PRICE: That's going to be Exhibit 6,  
14 Your Honor, on Mr. Ramirez's testimony in the big  
15 binder.

16 JUDGE SIPPEL: Okay.

17 BY MR. PRICE:

18 Q You testified yesterday, Mr. Ramirez, that  
19 on October 2 you received a fax from Mr. Sanchez  
20 containing a document that GGPR had sent to him with  
21 allegations as to why your original certification was  
22 inaccurate. What did you do in response to the

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1 October 2 fax?

2 A Can I refer to the phone log?

3 Q If that will help refresh your  
4 recollection.

5 A Well I just want to make sure that -- yes,  
6 that's what I thought. It looks like after we, after  
7 I received the fax from Ernie I must have had a  
8 telephone conversation with him about the fax. My  
9 best guess is that in that telephone conversation he  
10 then asked me to help him evaluate the list of  
11 complaints through this three part kind of question --  
12 or three questions.

13 He wanted me to know, he wanted me to tell  
14 him if I thought that the allegation was serious, was  
15 it required and does it matter, and I provided him my  
16 responses.

17 Q Now, did you realize at the time you were  
18 preparing the October 4 memo that your answers  
19 reflected -- let me ask it a different way.

20 Did you, did it occur to you at the time  
21 you sent -- prepared the March 4 memo for Mr. Sanchez  
22 that--

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